

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Branko D. KOVACEVIC
Title: SYSTEM AND METHOD FOR RECEPTION, PROCESSING AND
TRANSMISSION OF DIGITAL AUDIO STREAM
App. No.: 09/800,225 Filed: 03/06/2001
Examiner: Huyen X. VO Group Art Unit: 2655
Customer No.: 34456 Confirmation No.: 3322
Atty. Dkt. No.: ATI.0100440 (1376-0100440)

Mail Stop AF
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

**REMARKS IN SUPPORT OF
THE PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Dear Sir:

In response to the Final Office Action mailed January 25, 2008 (hereinafter, “the Final Action”) and the Advisory Action mailed March 6, 2008, and pursuant to the Notice of Appeal and Pre-Appeal Brief Request for Review submitted herewith, the Applicant requests review of the following issues on appeal.

Request for at least three examiners on the panel

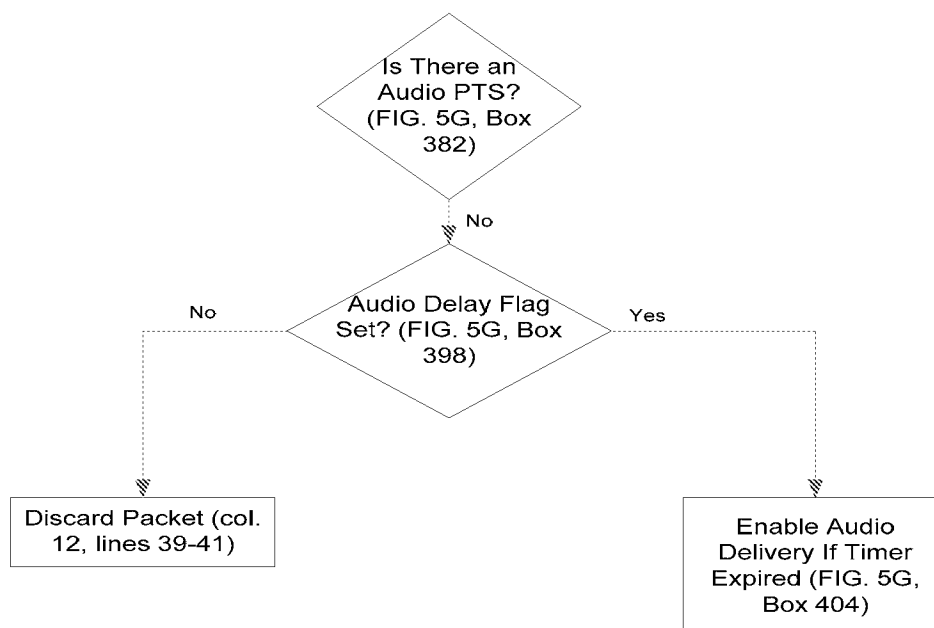
In order to facilitate full consideration of the remarks filed herewith, the Applicant respectfully requests that the Art Unit Supervisor designate a panel composed of at least three examiners.

Dokic fails to disclose determining whether to enable reception of audio stream data based on a comparison of a transport packet field to a value of a field register

Claim 1 recites “comparing a value of a first field in the transport packet to a value of a first field register to determine a first outcome” and “determining whether to enable audio stream data related to the transport packet to be received by a system or to discard the transport packet,

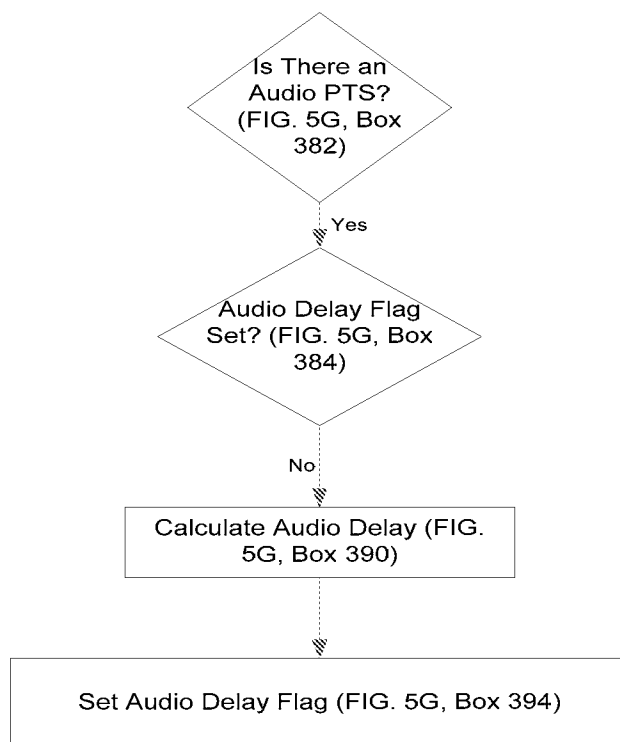
based at least in part on the first outcome.” According to the Final Action at page 2, Dokic (U.S. Patent No. 5,726,989) discloses calculation of an audio delay value, which the Office asserts is equivalent to “comparing a value of a first field in the transport packet to a value of a first field register to determine a first outcome” as recited in claim 1. Further, according to the Final Action at page 2, Dokic discloses determining whether to enable audio delivery or discard a packet based on calculating the audio delay value. Thus, according to the Office’s interpretation of Dokic, the calculation of an audio delay produces an outcome, as recited in claim 1, and Dokic allegedly discloses determining whether to discard a packet or enable audio data to be received, as recited in claim 1, based on this outcome.

Applicant respectfully disagrees. Dokic discloses determining whether a packet contains audio data and, if so, determining whether the packet includes a program time stamp (PTS). *Dokic*, FIGs. 5A and 5G (Box 382). If the packet does not include a PTS, Dokic discloses determining whether an audio delay flag is set indicating that an audio delay value has been calculated. *Id.*, FIG. 5G (Box 398). If the audio delay flag is not set, the packet can be discarded. *Id.*, col. 12, lines 39-41. If the audio delay flag is set, Dokic discloses transferring the packet to a buffer and, if a timer has expired, enabling audio delivery. *Id.*, FIG. 5G (Box 404). For ease of discussion, the decision flow disclosed by Dokic is illustrated in the following diagram:



Accordingly, Dokic discloses **determining whether to discard a packet or enable audio delivery based on the status of an audio delay flag.**

Dokic further discloses that a delay value is calculated in response to determining that the received packet has a PTS, and in response to determining that the audio delay flag is not set. *Id.* The delay value is determined by subtracting a system time clock (STC) value from the PTS. *Id.*, col. 12, line 6. In addition, in response to these same conditions, Dokic discloses setting the audio delay flag. *Id.*, FIG. 5G. For ease of discussion, this flow is illustrated in the following diagram:



Thus, Dokic **discloses setting the audio delay flag based on 1) whether the flag is already set, and 2) whether packet contains a PTS value.** As discussed above, Dokic discloses determining whether to discard a packet based on the status of the audio delay flag, and this status is determined by whether a received packet includes a PTS value. Dokic therefore discloses **determining whether to discard a packet based on whether a packet contains a PTS value.**

As illustrated above, the setting of the audio delay flag is *not* based on the calculated audio delay in any manner. Rather, calculation of the audio delay and setting of the audio delay

flag are two events that happen in response to determining a received packet has an audio PTS. Dokic does not disclose any relationship between calculating the audio delay value and setting the audio delay flag. Further, because (as explained above) the decision whether to discard a packet or enable audio reception is based on whether the audio flag is set, Dokic necessarily fails to disclose any relationship between calculation of the audio delay and a decision whether to enable reception of video data.

Thus, assuming *arguendo* that the calculation of the audio delay value is a comparison of a field in a transport packet to a field register, the outcome of this calculation is the audio delay value. However, the status of the audio delay flag, and therefore the determination of whether a packet is discarded, does not depend on this outcome. Thus, Dokic fails to disclose at least the feature of “determining whether to enable audio stream data related to the transport packet to be received by a system or to discard the transport packet, **based at least in part on the first outcome**” as recited in claim 1.

The Advisory Action responds at page 2 that “the PTS value is compared to the STC value to produce an outcome or audio delay (equation 1 in col. 11 or referring to col. 11, lines 45-50). Whether the audio delay is in the form of a real value or flag, it is a valid outcome. This audio delay flag or outcome is used in determining if the audio is accepted or discarded.” However, as explained above Dokic does not disclose that the setting of the audio delay flag is related to the comparison of the PTS value to the STC value in any manner. Rather, the audio delay flag is set based on whether a packet contains a PTS value. Accordingly, Dokic fails to disclose at least the above cited features of claim 1.

Dokic does not disclose a first field indicating an audio type

Claim 5 recites “wherein the first field indicates an audio type.” According to the Final Action at page 4, Dokic discloses these elements because it discloses identifying audio or video data. As indicated at page 4 of the Response to Office Action submitted February 14, 2008 (hereinafter the “Previous Response”), it is respectfully submitted one skilled in the art would not understand **video** data as being a type of **audio** data. Thus, Dokic fails to disclose a first field indicating an audio type as recited in claim 5.

Dokic does not disclose a stream indicator including one or more start codes

Claim 7 recites “wherein the stream indicator includes one or more start codes.” According to the Final Action at page 4, these elements are “within the scope of the reference.” As explained at page 4 of the Previous Response, the Final Action does not cite to any particular portion of Dokic that discloses these elements, and therefore fails to meet its burden of establishing a prima facie case of anticipation under 35 U.S.C. § 102. Further, Applicant respectfully submits that Dokic does not in fact disclose the features of claim 7.

Conclusion

As discussed above, the Office fails to establish that the cited references disclose or suggest each and every element recited by any of the pending claims. Accordingly, reconsideration and withdrawal of these rejections is respectfully requested.

Respectfully submitted,

May 21, 2008
Date

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